

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MARLAN PENTON,)	
)	
Petitioner,)	
)	
v.)	No. 4:19 CV 793 NCC
)	
EILEEN RAMEY,)	
)	
Respondent)	

MEMORANDUM AND ORDER

Marlan Penton petitions the Court for a writ of habeas corpus under 28 U.S.C. § 2254. The petition is successive, and will be dismissed pursuant to Rule 4 of the Rules Governing § 2254 Proceedings.

On September 3, 1996, Penton pled guilty to raping a child, burglary, felonious restraint, robbery, armed criminal action, stealing, and assault. Penton v. Luebbbers, No. 4:99-CV-1952 RWS (E.D. Mo.). The trial court sentenced him to life imprisonment. Id. Petitioner brought an untimely § 2254 petition in this Court challenging the judgment. Id. The Court denied the petition because it was untimely and because it failed on the merits. Id.

In the instant application for relief, petitioner argues that he was denied a preliminary hearing, he was inadequately advised of his appellate rights and there was inadequate evidence presented at trial to support his convictions.

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this

Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition is dismissed.

Finally, petitioner has failed to demonstrate that jurists of reason would find it debatable whether the petition is successive. As a result, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

Accordingly,

IT IS HEREBY ORDERED that petitioner's request to proceed in forma pauperis [No. #2] is **GRANTED**.

IT IS FURTHER ORDERED that the application for writ of habeas corpus under 28 U.S.C. § 2254 is **DENIED**, and this action is **DISMISSED AS SUCCESSIVE**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

Dated this 5th day of April, 2019.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE